

### **REMARKS/ARGUMENTS**

The Office Action mailed July 26, 2005 has been reviewed and carefully considered. Claims 1-7 were previously canceled. Claim 9 is canceled by the present amendment. Claims 8, 10, 11, 13, 14, 17, and 18 have been amended. Claim 19 is added. Claims 8 and 10-19 are pending in this application, with claim 8 being the only independent claim. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 8-18 stand rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 4,953,559 (Salerno) in view of U.S. Patent No. 4,569,131 (Falk).

Independent claim 8 is amended to recite "a covering comprising a tongue having a longitudinal length with a first end fastened proximate said distal end of said actuating rod and a second distal end, a position of said tongue being adjustable along a longitudinal length of said tongue via said actuating rod to an adjusted position between a closure position and an open position". The amendment incorporates the limitations of dependent claim 9 and also clarifies that the covering is a tongue that is displaced axially or longitudinally along a longitudinal axis thereof in response to the actuating rod. Support for this limitation is found on page 5, lines 6-8 and 27-29.

It is respectfully submitted that the combined teachings of Salerno and Falk fail to teach or suggest the above limitation. Salerno discloses a catheter for endocardial biopsy with a tubular body which terminates at one end in a spoon-like appendage 2 which comprises one jaw of a pair of biopsy forceps 3 (see col. 2, lines 46-50 of Salerno). The other jaw is also a spoon-like appendage 4 (col. 2, lines 52-55). The appendage 4 is carried by a support lever 5 which is

articulated about an axis 8 by a pin 9 (col. 2, lines 57-62). The lever 5 rotates about an axis 8 to move the appendage 4 between a closed position and an open position (col. 3, lines 14-18).

The Examiner alleges that the appendage 4 to be the claimed covering. Since the appendage 4 of Salerno is a spoon-shaped appendage, Salerno fails to disclose that the covering is a tongue, as expressly recited in independent claim 8. In addition, Salerno discloses that the appendage 4 is moved by rotating the lever about the axis and therefore fails to teach or suggest "a position of said tongue being adjustable along a longitudinal length of said tongue via said actuating rod", as is also expressly recited in independent claim 8. In contrast to a cover comprising a tongue, Salerno discloses a biopsy forceps having one stationary jaw (appendage 2) and one pivotable jaw (appendage 4). Accordingly, Salerno fails to teach or suggest that one element is displaced along an axial or longitudinal length thereof in response to the actuating rod.

Falk fails to teach or suggest what Salerno lacks. Falk discloses a pincher-like tool having a stationary part 13 and a movable part 14, wherein the movable part pivots from an open to a closed position (see col. 3, lines 33-39). Since Falk discloses that the parts pivot relative to each other, Falk also fails to disclose that the covering is a tongue and "a position of said tongue being adjustable along a longitudinal length of said tongue via said actuating rod", as expressly recited in independent claim 8.

Since the combined teachings of Salerno and Falk fail to teach or suggest that the covering is a tongue and "a position of said tongue being adjustable along a longitudinal length of said tongue via said actuating rod", independent claim 8 is allowable over Salerno in view of Falk.

Dependent claims 10-18, each being dependent on independent claim 8, are allowable for at least the same reasons as is independent claim 8, as well as for the additional recitation contained therein

Dependent claim 17 further recites "said tongue comprises a thin strip having a longitudinal length, wherein the position of said covering is adjustable by axially displacing the thin strip along the longitudinal length thereof so that the strip moves across the opening defined by said spoon-shaped trough in response to said actuating rod". The Examiner alleges that the appendage 4 is the covering and is a thin curved strip. The Examiner further alleges that the appendage 4 is displaced axially because the pivoting movement since the appendage moves to the left as it pivots. It is respectfully submitted that the appendage 4 does not move along the longitudinal length thereof or move across the opening of a spoon-like trough, as expressly recited in claim 17. Regarding the first reason, the appendage 4 actually moves toward or away from the opening. When the appendage is first moved from the closed position, it is moved perpendicular to the plane of the opening. The pivotal movement of the appendage can not be considered to be a movement across the opening, as recited in claim 17. Furthermore, the pivotal movement of the appendage 4 can not be considered to be a movement along a longitudinal length of the tongue, as recited in claim 17. Accordingly, claim 17 should be allowable for these additional reasons.

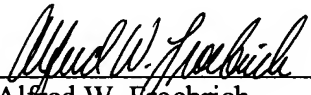
New claim 19 recites limitations directed to the actuating mechanism. Support for these limitations is found in the original specification at page 6, lines 19-25 and page 7, lines 1-5. These limitations are not disclosed by the prior art of record.

In view of all the above amendments and remarks, the application is deemed to be in condition for allowance and notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

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